

month following and no later than the first day of the second month following the date the mortgagor's recertification is received by the mortgagee.

**§ 235.361 Recovery of assistance payments.**

(a) The mortgagee shall refund to the Secretary all overpaid assistance payments except where the mortgagee has filed a claim for mortgage insurance benefits or the mortgage has been paid in full or the mortgagor has sold the property to an assumptor, and the overpayment did not result from the fraud, misrepresentation or failure to meet contractual obligations, on the part of the mortgagee.

(b) The mortgagee shall refund to the Secretary all overpaid assistance payments, together with the handling charges paid for each month of overpayment and interest on the amount refunded at the rate of 7% per annum, in any case where the overpayment resulted from fraud, misrepresentation or failure to meet contractual obligations, on the part of the mortgagee.

(c) The mortgagee may increase the mortgagor's required monthly payments in an amount which will reimburse the mortgagee (except handling charges and interest) within a reasonable time without causing undue hardship to the mortgagor, except where the overpayment resulted from fraud or misrepresentation on the part of the mortgagee.

(d) For purposes of this section *overpaid assistance payments* means assistance payments which the Secretary paid to the mortgagee on behalf of a mortgagor in excess of the amount of benefits to which the mortgagor was entitled and *failure to meet contractual obligations* means failure to request a required recertification or failure to act on a recertification as required in this part.

[43 FR 60156, Dec. 26, 1978]

**§ 235.365 Mortgage records.**

The mortgagee shall maintain such records as the Secretary may require with respect to the mortgagor's payments, the mortgage assistance payments received from the Secretary, and the annual recertifications of financial status from the homeowner or mort-

gagor. Such records shall be kept on file for a period of time and in a manner prescribed by the Secretary and shall be available, when requested, for review and inspection by the Secretary or the Comptroller General of the United States.

**§ 235.370 Effect of assignment of mortgage with an assistance payment contract.**

Where a mortgage covered by an assistance payment contract is sold to another approved mortgagee, the buyer shall succeed to all the rights and become bound by all the obligations of the seller under such contract.

**§ 235.375 Termination, suspension, or reinstatement of the assistance payments contract.**

(a) *Termination.* The assistance payments contract shall be terminated when any of the following events occur:

(1) The contract of mortgage insurance is terminated, except when the mortgage has been assigned to the Secretary.

(2) The property is purchased by a homeowner not qualified to receive assistance payments.

(3) The cooperative member transfers his membership and occupancy rights to a new cooperative member not qualified to receive assistance payments.

(4) When the assistance payments contract has been suspended for a period of three years without reinstatement.

(b) *Suspension.* The assistance payments contract shall be suspended when any one of the following events occur:

(1) The homeowner or cooperative member ceases to occupy the property, except in the following instances:

(i) The property is purchased by a homeowner who immediately assumes the mortgage obligation with respect to which assistance payments have been made on behalf of the previous owner, and who meets the income and asset requirements prescribed by the Secretary.

(ii) The cooperative member transfers his membership and occupancy rights to a new member who assumes the mortgage obligation and who meets